

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHEN DISTRICT OF OHIO**

MALIBU MEDIA, LLC.,	)	<u>Civil Action No.: 3:14-cv-00154-WHR</u>
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CYNTHIA E. BEATY,	)	
	)	
Defendant,	)	
_____	)	

**ANSWER OF DEFENDANT, CYNTHIA E. BEATY, TO PLAINTIFF'S  
COMPLAINT**

Now comes Defendant, CYNTHIA E. BEATY by and through undersigned counsel, for her Answer to the Complaint of Plaintiff, MALIBU MEDIA, LLC., hereby states as follows:

**FIRST DEFENSE**

1. The answering Defendant denies the allegations contained in paragraphs 2 and 35 of Plaintiff's Complaint.

2. The answering Defendant is without knowledge sufficient to form a belief as to the truth of the allegations contained in paragraphs 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 34 of Plaintiff's Complaint and for want of said knowledge denies the same.

3. The answering Defendant admits to the allegations contained in paragraph 9 of Plaintiff's Complaint

Without admitting any facts alleged by Plaintiff, Defendant also pleads the following separate and affirmative defenses to the Complaint:

**FIRST SEPARATE AND AFFIRMATIVE DEFENSE**

6. The Complaint and each claim contained in it fail to state a claim on which relief can be granted.

**SECOND SEPARATE AND AFFIRMATIVE DEFENSE**

7. The Complaint, and each of its causes of action, is barred by all applicable statutes of limitation.

**THIRD SEPARATE AND AFFIRMATIVE DEFENSE**

8. The Defendant is informed and believes, and on that basis alleges, that the Plaintiffs are barred from obtaining any relief sought in the Complaint by reason of copyright misuse.

**FOURTH SEPARATE AND AFFIRMATIVE DEFENSE**

9. The alleged acts complained by the Plaintiffs were duly licensed to Defendant and authorized by Plaintiffs when Plaintiffs agreed to make their movies available on the Internet.

**FIFTH SEPARATE AND AFFIRMATIVE DEFENSE**

10. The Complaint and each claim for relief contained in it are barred by the doctrine of waiver.

**SIXTH SEPARATE AND AFFIRMATIVE DEFENSE**

11. The Complaint and each claim for relief contained in it are barred by the doctrine of estoppel.

**SEVENTH SEPARATE AND AFFIRMATIVE DEFENSE**

12. The Plaintiff's claims for relief are barred or reduced because Defendant was justified in engaging in the conduct, if any, alleged in the Complaint.

**EIGHTH SEPARATE AND AFFIRMATIVE DEFENSE**

13. Defendant alleges that it was excused to perform certain acts alleged in the Complaint.

**NINTH SEPARATE AND AFFIRMATIVE DEFENSE**

14. At all times relevant to the Complaint, Defendant's conduct was in good faith with nonwillful intent.

**TENTH SEPARATE AND AFFIRMATIVE DEFENSE**

15. Defendant is informed and believes, and on that basis alleges that the Complaint is barred, in whole or in part, because Plaintiffs have not suffered any losses, damages or detriments, in any sum or amount whatever, as a result of Defendant's activities alleged in the Complaint.

**ELEVENTH SEPARATE AND AFFIRMATIVE DEFENSE**

16. Defendant is informed and believes, and on that basis alleges that the Complaint is barred, in whole or in part, because Plaintiffs lack standing to bring the claims, in that they do not own or control the copyrights for the movies alleged in the Complaint.

**TWELFTH SEPARATE AND AFFIRMATIVE DEFENSE**

17. Defendant is informed and believes, and on that basis alleges that the Complaint is barred, in whole or in part, because to the extent Plaintiffs have suffered any losses, damages or detriments, in any sum or amount whatever, such harm was caused by the intentional or negligent acts, omissions or misconduct of others, including Plaintiffs and their agents.

**THIRTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

18. Defendant alleges that the Complaint is barred, in whole or in part, by the doctrine of unclean hands.

**FOURTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

19. Plaintiffs are barred from any recovery to the extent that they failed to take reasonable and necessary steps to mitigate damages and to protect their interests.

**FIFTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

20. The damages alleged in the Complaint are impermissibly remote and speculative, and therefore, Plaintiffs are barred from the recovery of any such damages against Defendant in this action.

**SIXTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

21. Defendant alleges that to the extent the Complaint alleges a claim or claims for equitable relief, Plaintiffs have an adequate remedy at law.

#### **SEVENTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

22. Defendant alleges that the Complaint is barred because Plaintiffs have not been injured at all as a result of Defendant's conduct.

#### **EIGHTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

23. Defendant alleges that is absolved from any and all liability for the wrongs alleged in the Complaint by reason of its full compliance with all statutes, regulations, or other laws or provisions in effect at the time of the conduct alleged in the Complaint.

#### **NINETEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

24. Plaintiffs' claims for relief are barred, in whole or in part, because they executed a valid and enforceable agreement authorizing and consenting to the alleged conduct of the Defendant on which the claims are based.

#### **TWENTIETH SEPARATE AND AFFIRMATIVE DEFENSE**

25. Plaintiffs' state law claims for relief are barred, in whole or in part, because they are preempted by Federal law.

#### **TWENTY-FIRST SEPARATE AND AFFIRMATIVE DEFENSE**

26. Plaintiff's claims for relief are barred, in whole or in part, because Defendant's conduct is protected under Federal law.

#### **ADDITIONAL DEFENSES**

27. Defendant reserves the right to allege additional affirmative defenses as they become known during discovery, and to amend its Answer accordingly.

***WHEREFORE***, Defendants pray for judgment as follows:

1. That Plaintiff take nothing by reason of his Complaint, that the Complaint be dismissed in its entirety with prejudice, and that judgment be entered for Defendants;
2. That Defendant be awarded her reasonable costs and attorneys' fees; and
3. That Defendant be awarded such other and further relief as the Court deems just and proper.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 23, 2014, I electronically filed the foregoing document with the Clerk of the Court and all parties using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

By: /s/ Gregory O. Cox  
Gregory O. Cox, 0087222